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commercial transaction amounting to the sale of the daughter by the father. Some evidence in support of this view may be found in Zaleskie's statement:[77]

> According to ancient customs a kalym was intended to serve as the dowry of the young wife; today, on the contrary, especially among the poor, it has become the exclusive property of the father who gives to his daughter only a certain number of dresses and household utensils.

It may be noted here that in discussing marriage negotiations and the arrangement of the bride price my interpreter always employed the Russian verb prodavat' (to sell) in relation to the father's disposal of his daughter.

My information indicates that the practice of sending dowries along with the bride to the camp of her husband was largely restricted to the upper classes, though it might sometimes occur in a very modest way among poorer people. The principal feature of such dowries was a kibitka with furnishings for the young wife. She might also be accompanied by maidservants who were slaves, The dowry, including the slaves, was considered the property of the woman, and in case of divorce should be returned with her to her father. Many husbands, however, were not scrupulous about carefully distinguishing between their wives' property and their own. Moreover, from Grodekov's sources it appears that the dowry might be considered as belonging to the husband because in divorcing a wife who has committed no fault "he is obliged to restore to her a part of the goods which she has brought with her at marriage."[78]

Marriage ceremonies, which varied greatly in character and complexity according to the locality and the social status of the families involved, have been described by many authors.[79] My information contributes nothing new to these accounts.

DIVORCE AND REMARRIAGE

Marriages might be terminated by mutual consent, at the command of the husband or, in certain cases, at the wish of the wife. According to my informants, however, the dissolution of marriage among the rich was very rare, apparently because of the large amounts of kalym involved and the disputes that were sure to arise over its disposition if the union were terminated. The poorer people were much freer to separate.

The husband might divorce his wife for sterility,[80] adultery, lack of proper respect and discipline and sometimes because he had found her not a virgin at marriage. All of these reasons were sufficient cause for the return of all or part of the kalym which had been given for her. He might also, it appeared, simply refuse to support her and return her to her parents because he found her generally unsatisfactory. In such cases there was always a conflict over the restitution of the bride price. Hence it was to the advantage of the bride's

[77] *La Vie des steppes*, 24.

[78] Dingelstedt, *Le Droit coutumier*, 155.

[79] Divaev, *O Svadebnom Rituale*, 1–27; Karutz, *Unter Kirgisen und Turkmenen*, 101–10; see also Levshin, *Description des hordes*, 360–61; Zaleskie, *La Vie des steppes*, 24; Radlov, *Aus Sibirien*, 1: 477–84.

[80] See also Dingelstedt, *Le Droit coutumier*, 155.

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586 parents to prevent the breakup of their daughter's marriage so that they might not run the risk of being obliged to return the kalym. An unscrupulous father might simply refuse to restore it under any circumstance, thereby precipitating a quarrel which could end in a blood feud.

[562] The wife might, according to one informant, leave her husband because of cruel treatment and return to her parents. This statement is somewhat at variance with the notion of the Kazak woman as being in effect the slave of her husband. The force which restrained her from leaving a cruel husband was probably the fact that she would not be welcomed back by her family who would then be under obligation to return the full kalym because of her desertion. Karutz[81] suggests that harsh treatment on the part of the husband might justify a woman in leaving him.

587 In some cases divorce was permitted a woman from a particular husband but she was obliged to take another from his close relatives, preferably his younger brother. Impotency on the part of the husband was cause for separation but the wife had to marry again within the first husband's family. Similarly, a wife whose husband was absent for seven years without making provision for her, reverted to his brother.[82]

Levshin says[83] that only the senior wife, if she had sufficiently grave reasons, might return to her own family. The junior wives had no such privilege.

According to Grodekov's information a divorced woman, who, as a wife was considered as belonging in a sense not to an individual but to the group, must always take another husband from among the first husband's relatives.[84] My informants said that this was by no means the case. A divorced woman might return to her own parents or marry again some man from a third group. There were numerous instances of this but one must consider the possibility that it may represent a comparatively recent development. Also it is necessary continually to bear in mind the difference between theory and practice in social relationships.

586 A similar problem is involved in the question of the disposition of the children of a divorced couple. At first my informants said that all children would invariably remain with the father.[85] Later it appeared that although sons would always stay with the male parent it was not unusual for a daughter to go with her mother. Dingelstedt moreover[86] indicates that the eldest son had a right to choose between his parents.

The question of the uru affiliation of children who went with the mother at the dissolution of a marriage is of importance. Tlenshiev said that when a divorced wife returned with a daughter to her own family the daughter lost connection with the uru of her father. The

[81] *Unter Kirgisen und Turkmenen*, 111–12.
[82] Dingelstedt, *Le Droit coutumier*, 155.
[83] *Description des hordes*, 364.
[84] Dingelstedt, *Le Droit coutumier*, 147.
[85] See also Karutz, *Unter Kirgisen und Turkmenen*, 112
[86] *Le Droit coutumier*, 155.

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mother would probably marry again into a third uru and the daughter would go with her 586
and be considered a member of the family of the mother's new husband. She might, according to Tlenshiev, even marry back into the uru of her real father. Another informant objected to this statement and said that she could only do so if the seven generations rule permitted; such, of course might perhaps be the case even if she had remained with her father in the first place.

The evidence on the whole indicates that a wife in theory was considered to belong permanently to the uru of her first husband, and the children to the uru of their father, although in practice, especially as regards residence, there might be numerous exceptions to the rule.

LEVIRATE AND SORORATE

Both the levirate and sororate were practised in variable and attenuated forms by the 587
Kazak. My informants said that as a general rule when a man died his wife would marry his younger brother; if he had no younger brother she would marry an elder brother. If the deceased husband had no brothers she would marry some relative, probably a son of the husband's father's brother. She was in any case expected to remain in the husband's uru, but considerable latitude of choice was permitted her. Tlenshiev said that if she happened to prefer an elder brother to the younger brother she might marry the former if everyone were willing.

It is important to note that the taking over by a brother of his widowed sister-in-law had the character, in many cases at least, not of a marriage but of a guardianship.[87] It was essentially a device to ensure the support of the dead man's children. Frequently a childless widow or one with grown children would not remarry at all. The personal element of course was very important. The disposition of a young and attractive widow sometimes became a bone of contention between surviving brothers. On the other hand a man might receive his brother's widow as an obligation to be dutifully accepted, perhaps having occasional sexual intercourse with her as evidence of cordiality but generally relegating her to a position of pensioner. One case was mentioned of a man who objected strongly to taking in his brother's widow, but, being ordered to do so by the bij, submitted.

Information from other sources on the observance of the levirate is contradictory but generally suggests the flexibility of the institution. Zaleskie says[88] that not only a widow but a financée for whom part of the kalym had been paid was absolutely obliged to marry a near relative of the dead man. But he adds that this did not apply to women who had adult children. Grodekov[89] states that a widow should take a new husband from the family of the first and that it was the eldest brother who had first claim to marry her, although he might cede his rights to a younger brother and even to his own son. It was,

[87] See also Beveridge, *Babur-nama in English*, 23 and note.

[88] *La Vie des steppes*, 52.

[89] [illegible] *Karakirgizy*, 12; also Dingelstedt, *Le Droit coutumier*, 154–55.

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587 however, optional for the widow to remarry. If she wished to remain single she was entitled to a share of her husband's property or might even, with the consent of her first husband's family, marry a man who was not related to them, provided kalym were paid to the first husband's family by the new husband. She might go so far as to remarry without their consent and without payment of a second kalym but the marriage would not be con-
[586] sidered as altogether respectable. Elsewhere Grodekov says[80] that when a widow married a husband in a "different tribe" the children stayed with a guardian in the first tribe. It is not unlikely that in such cases there were exceptions similar to those which have been mentioned in reference to the disposition of children of divorced parents.

It was customary, though by no means obligatory, for a man to marry the younger sister of a deceased wife, provided of course that she were not already married to someone else. In marrying a wife's sister a greatly reduced kalym or perhaps none at all was paid. The wife's father however might refuse to give over a second daughter but, according to Grodekov[81] would be obliged to pay a small compensation for the refusal " . . . unless he had good reasons." If a fiancée died before marriage her family was expected to substitute her younger sister. It was, however, very definitely not permissable to be married to two sisters simultaneously. My informants were noticeably shocked at the suggestion. One of Grodekov's informants told him that two brothers might not marry two sisters and the wives of brothers must be at least three generations removed from one another. In other districts he found no objection to brothers marrying sisters.[82] My own informants thought it was quite usual.

[80] *Kirgizy i Karakirgizy*, 38.
[81] *Idem*, 30
[82] *Idem*, 28–29.

Kazalinsk uyezd the boys marry from 9 to 12 years of age. The early 582
marriage of the daughters is dependent on the poverty of the parents, for whom it is difficult to support them. In the Chimkent uyezd the bride is usually sent away at the age of 20 to 25.

After the full payment of the kalym the marriage cannot fail 586 ●
to be consummated. But unchastity or other faults (aib) of the bride 836
which have taken place without it being the fault of the groom, and also the incapacity of the groom for marital cohabitation can be reasons for not consummating the marriage even after the payment of the bride price.

A good groom keeps silent about the shortcoming of his bride which he knows about, especially since now a bride who is faultless is rarely found (Perovsk uyezd). If he makes a complaint but does not renounce the marriage he can be returned half the kalym. If he completely renounces the bride, they offer him the choice of another daughter or the whole (tegiz) kalym which has been paid. If the groom refuses the marriage without guilt on the part of the bride, he cannot demand the return of the paid kalym. Sometimes it happens that they do return part of the kalym to him. (2) From the Chimkent uyezd it

> 2. If the bride declares her unwillingness before the Russian authorities, to marry the groom chosen by her father, then if she is still in her father's house, this is equivalent to the annulment of the ritual of marriage, and she is permitted to marry according to her own choice, with the return of the part of the kalym received from the former groom.

is reported that in /56/ the case of such a refusal, if the groom had been living with his bride, he pays a fine of eight horses and one camel.

If the bride complains to her mother of the groom's having relations with her before the wedding, then his clothes are torn and the belly of his horse is ripped open.

If a girl who is not betrothed has a child, she is considered the 588
wife of the child's father, without having received a kalym. Her father or kinsman may sometimes demand a full kalym for her, depend-

the beauty and youth of the bride and the wealth of her parents.
er the death of the groom, the bride is counted on for his 587
and /schitaetsia za-ego bratom/ in general for his nearest kinsman,
oves that the bride was and is now considered the property of the clan

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they do not pardon it regardless. (Torgai).

If the groom himself causes the bride to lose her innocence at the oruntoy, he informs the matchmakers who spread out the nikeyaulyk of this, and in such a case they demand gifts for themselves, resorting to a threat which is never carried out, namely, to rip open the belly of his horse. (Bii Sultan).

586

If the groom is impotent (yaramisa), they wait three days. After that if the bride does not like the groom, she can use this as a pretext to announce that she will not marry him (tiymeymen). Then her father returns the kalym to the amount determined by the biis.

On the following day, for the first time during the day, the bride's father and mother invite the groom to their tent. He does not sit in the tur /place of honor/ but remains in the corner between the first and second cross pieces (yabsar - corner, link). He is given the sheep's breast (tus) to eat. The guests appear with food and receive money from the groom in empty cups (tabak). (Torgai).

According to Irsbek, among the Tashkent Kazakhs no wedding can dispense with the religious ceremony /venchanie/ (nika), for which the groom provides the payment, nikakyyar, 40 kopeks to the imam and 2 rubles to the bii. According to Daulet Bushaev, they give the mullah, depending on their station, 1 sheep and 40 kopeks, or 4 rubles, 40 kopeks in money, or another gift. According to Mikebai, the bii does not take a gift, anyway as a guest. The mullah receives eki bauly chapan "a coat with two fastenings", i. e., one coat, or eki tisti tusak, "a female ewe with two teeth", or 4 rubles. /69/ The rich give more. Only half this sum is given for a widow.

In the Kazalinsk uyezd the wedding ritual /brakosochetanie/ takes place in the following manner. While the prayers are read water is poured into a cup. The girl being married throws either earrings or a silver ring into it, and covers the vessel with a white kerchief. The groom fastens a stick in the form of an arrow to the edge of the cup with the white kerchief. After the prayers the bride takes back the object thrown into the cup, and thereafter preserves it as a pledge of happiness. One of the witnesses of the wedding (1) takes the cup

1. There must be one from each side.

and holds it in his hands in such a way that the fingers on the brim do not join on top. In this space husband and wife put their lips in turn (the husband first) and drink the water. Then the cup is passed

684 cannot get off with a declaration that the wife was yielded to him for money, etc., and he pays a fine. For abducting a wife without her consent the lover is beaten and required to pay from one to three toguz (tyuya bastagan toguz, at bastagan toguz, siir bastagan toguz). If the wife was abducted with her consent, they beat the lover and the wife, and in addition the lover pays from one to three toguz.

683 562 [581] /88/ If a husband publicly raises a knife, ax or saber against his wife, or wounds her with such weapons, an atton is awarded to the wife's relatives who make a complaint. A third case of such a complaint causes a divorce.

For threatening to kill the wife, her relatives do not take her away with them, but only threaten the husband saying: "If you kill her, then you will get it soundly" (ultirseng tubinde kurersen).

If a wife thrashes her husband, the husband or the husband's brother strips her naked, ties her and whips her. If she complained to the bii, he would sentence her to the same.

For mutilation, breaking an arm, blinding the eyes, etc., a husband pays less than the usual fine for these injuries. In demanding a fine, the wife's relatives express themselves thus: "You have mutilated our sister, and lowered her value" (aibdi kyldyng, karyndasymyzdy kem kyldyng, bakhasyn kettirding). For giving the wife a light wound on the head, or for a scar (bas yarylsa, tamga tusse), etc. there is no complaint.

When they find out about the husband's beating his wife, her relatives (turkun) appear before him with the words: "Surely she has been convicted of stealing or infidelity? (kolynan urlyk shykty ma, koynynan uinas shykty ma?). If you are dissatisfied with her a second time, give her to us (ekinchi yaman kurseng bizge ber). If you are not pleased with her, we are pleased with her (sen yaman kurseng de, biz yaman kurmeymiz). If she has fallen into error prove it to us through witnesses and cut off her head, and we will cut off her legs" (aybi bulsa, guva menen muynyna koy, basyn kis, biz ayagyn kiseyik). The husband answers: "I can beat her as much as I like, and if I beat her to death, I will pay wergeld." The relatives do not take the wife away, but they advise her to run away to them, which she later does. Then the husband, repenting of his anger and shamed by the people (yurt), goes after her, and promises by oath (kasam beredi) not to beat her or scold her. Her relatives agree to this with the words: "To return the wife the first time is the custom of the people (yurttyng resmi). But if you beat her again,

we will not give her up to you." The second time /89/ they really do not give her up. The husband already does not go for her, but sends a third person to settle the account, i.e., to receive 3-4 kara. 583 562a

If the disharmony with the husband which took place is the fault of the wife (aib khatyndan bulsa), i.e., for infidelity, a bad tongue, etc., then her relatives do not accept her, even though she runs away to them twenty times, and they say: we will not demand vengeance money for you. Then she goes to another more distant relative (baskа turkun). Her lover appears there and says: "Your kinswoman has separated from her husband. I will take her and pay all the expenses." The husband takes it to court. The wife does not wish to return to him on any account. Her lover pays 6-7 kara or 30 tillias for the benefit of the husband. 584

If a lawful wife starts a quarrel with her husband in order to leave him, without any cause from his side, customary law does not permit her to do so. If in spite of this there is no possibility of keeping her with him, the husband is required to give her a letter of divorce, and the wife or a man who wishes to marry her is obliged to return in full the kalym which was received for her.

For killing his wife, the husband pays her relatives (as for mutilation) less than the usual female wergeld according to kinship, as it is said. 682 562

For barrenness (bedau, kysyr) a wife is not sent back to her father, but they ask the mullah to read over her, or send her to spend the night at holy places and burn a candle there (mullaga okutady, auliya tunetedi charag yagib). In the poem Shura Batyr is a description of the journey of Marykbai and his wife Gul'kanys, for this reason, to the tomb of a saint, who appears to them and promises a son and a daughter. 842

After repeating the words talak (divorce) or talak koydym (I have given a divorce) three times, a divorce is validated according to the Shariat. In addition, a woman who goes away to her father's house, or to the person who married her off is usually considered divorced. She does not take property with her, but /90/ the husband gives her something, for example, one-eighth of his property, if she was not guilty in the divorce. 586

A divorced woman no longer walks covered with a veil, as she did formerly.

Former spouses can marry again, even up to three times. The fourth time a woman can marry her former husband only if she was married to an outsider after the third marriage. In the Kazalinsk uyezd, 587

587 a divorced woman can marry her husband for the second time only if she has been married to another, received a divorce from him and has lived unmarried for 100 days. Here the influence of the Shariat is felt.

586 A marriage is dissolved after the husband has been absent without report for 7 years; if in this period he could not be found, and means for support of the wife were not brought from him. The wife in this case is acquired by the older brother without a kalym.

A marriage is dissolved in the case of incapacity of one of the spouses (szharamsiz, bili dzhok, erlikke dzharamaydy), even after long years of living together. If the husband denies his impotence, the wife orders him to establish the truth under the observation of the elder (the bii books of the Perovsk uyezd). According to the declaration of Aver'yanov, the former chief of the Namangan uyezd, a Kirgiz woman who was complaining of the impotence of her husband, was led into a special place, lay down there, in the presence of the biis, and invited her husband to prove his capacity for marital relations. The husband proved to be impotent. (1)

1. According to a report of I. I. Ibragimov, one Siberian bii ordered the married couple to be intimate, and appointed several persons from among his intimates to observe them from outside the tent. In addition he appointed one person apiece from the side of the plaintiff and the defendant. The observation led to nothing for the observers, like the couple themselves, contradicted each other, so the bii ordered them to be led into a special tent and to make the same experiment, but in hot water. The husband proved to be impotent.

The wife, when she declares that her husband is impotent to his relatives, asks permission to marry another. The husband's relatives, seeing no basis /91/ for refusing, oblige her only to choose the new husband from the same clan and lineage, so as not to cast a shadow on their lineage. The new husband in such a case does not pay the first one a full kalym but a "kin" one the amount of which is greater, the more distant the degree of kinship. (1)

1. Communication of Torgai.

If the wife does not wish to live with her husband because of his incapacity for marital life, but in the meantime it is shown that he is capable of this, she does not have the right to leave him. If by examination of the husband it is proven that he is incapable of marital relations, the wife, having received a letter of divorce from him, with the signature of solid persons, can marry whomever she wishes. In this case the previous husband of this woman must pay her new husband half a kalym. (2)

2. Communication of Sagyndykov.

The settlement which is reached when a wife leaves her husband is based, among the Kazakhs, on the amount of the kalym already received for her from the husband. Among the Kirgiz the settlement does not depend on the size of the kalym. Among them they simply decree from 2 to 3 toguz /nines of cattle/ for the use of the husband. The reason for this lies in the fact that the Kirgiz, from the time of matchmaking, when the bride is 2-10 years old, until she is mature (17 years) pay without reckoning until the parents come to the bride's house with one animal (so as not to come with empty hands) and determine the amount of kalym remaining to be paid.

In imitation of the Shariat, the customary law allows akymar (property) to be alloted to the wife in case of a divorce (khatynyng inchisi). The akymar can consist of livestock, immovable property and money.

The groom determines the akymar of the bride before the people, but without a receipt. He does not distinguish it from his own property and does not put it into her hands. In the case of a divorce, the wife, her closest kinsman (iese) or her clan (dzhamaasy), demands /92/ in court and receives the promised akymar. After the death of the husband, if the widow has a dispute with his relatives, they do not give her the akymar. If, however, she takes leave of the relatives of the husband on good relations, the heir gives her something in place of the akymar. If the husband grows weary of the old wife, and marries a young one, he can apportion the earlier wife with the akymar, with the addition of an allotment for her child. He apportions her to his son, or brother, or around himself. He is free to send her to her own kinsmen /turkun/.

Among the Kirgiz there is no akymar, but for this purpose there is a "contribution to the wedding"(nikaga basken mal), collected

586 among the relatives. The groom's father is the first to give to the contribution. This property remains with the husband in the case of divorce.

According to Umurbek, the children of divorced parents remain with the father, but an amicable agreement can be reached and the young ones granted to the mother. According to Mikebai, often the relatives will not permit a minor son to go to the new husband of the widow. A grown son has freedom of choice. The first of the daughters always goes with the mother, and the others remain with the successors. Now, however, the daughters too have the right to give consent or not.

587 429

Among the Kirgiz, Kurpetai Daulekulov reports that the sons and daughters remain with the father's relatives after his death. If there are several daughters the biis may allot the youngest one to the mother. According to the report of the Kirgiz Daniyar, a widow who marries a close kinsman of her husband, takes property with her and a young son. But if she marries a strange man she receives neither property nor the son, and the kalym which comes for her goes to the brothers of the deceased and in part for the use of her children. A divorced woman also fails to receive property or her son.

If the step-father is killed, the step-son does not have the right to claim wergeld. Likewise if the step-son is killed, the step-father has no right to demand wergeld. The wergeld is demanded by the closest kinsmen, and the step-father or the step-son can only receive a reward for the expenses born by them for the burial. The step-father has a right to demand wergeld for his own use for a killed step-son only if there are no other kinsmen.

182 593

/93/ The wife does the work her husband directs her to do. She is not allowed to argue (erkbermeymiz). In the absence of the husband the wife feeds herself from his livestock. Even if there are no means of life for a long time, she still cannot marry another because of this.

593 562

There is no obstacle preventing a husband who is absent for a long time from entrusting or reconveying his wife to another. Only the latter is not customary. (1)

562 837

1. According to Makovetskii, I.P. 24, this happens: "the biis refuse a husband who claims the wife who has been sold."

Only daughters given to ishans as a gift (nazyr), not wives.

588 question, if they do not come to terms with their lovers, demand payment in court for their service. Such a complaint took place in the Kazalinsk uyezd in 1887, by a woman who had lived with a man more than 10 years. The bii rejected her suit against the man.

•586 If after the departure of the husband a child is born after 9
837 months and 10 days or more, the husband divorces the wife, and she
848 marries her lover, who pays the former husband a kalym, either his daughter or a kinswoman. If the husband does not wish a divorce, he receives the wife with the strange child and a fine from the lover of 2-3 camels (in former times he received a full kalym). If the child was conceived by the lover, but not during the absence of the father, it is considered the lawful child of the husband. According to Torgai, children of widows, born out of wedlock, remain /97/ with her until her death. Before she dies they ask about their father and look for him.

848 It is impossible to speak of illegitimate children of unmarried girls, according to Torgai, for on the steppe all the girls marry (kyz dalada kalmaydy). In the Kazalinsk uyezd such children are buried in the ground. According to Aleksandrov and Makovetskii, a child born of a widow and the brother of her deceased husband is considered a legitimately born member of the family. (1)

1. Staff Captain Grombchevskii reports the following concerning the attitude of the Kirgiz of the Fergana region to illegitimate children. Bringing a child into the world from fornication not only covers the family of the girl with shame, but also her entire clan. In order to avoid the scandal they try to marry the girl upon the first signs of pregnancy. When this is not successful, they have recourse to stopping the prenancy. This is either done mechanically, or by giving the patient an infusion of the "usma" plant, or finally they put the child to death immediately after birth. Illegitimate children do not succeed the father, and are usually banished from the village as soon as they are big enough to herd livestock or to support themselves by other means. They are called kharam, kharmzade, valadizina, and in the Ketmen-Tiube volost also gartakum (born of a libertine). There are cases, however, when the birth of a child out of wedlock is not considered a scandal, namely, 1) from a groom and bride, if they later marry, 2) from a widow and

[847]

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Kazakh men may take more than one wife for many reasons, perhaps to gain the prestige of numerous wives, or because the first wife has not borne a son. A barren or sonless wife may be divorced and sent back to her family. The fortunate woman who has borne a son is endowed with property which is hers to hold in trust for her minor children. Should the mother of a son be widowed, she is a free agent and may remarry or not, as she pleases and whom she pleases. If a widow has no children or has only daughters, she may be forced into leviratic marriage (i.e., marriage with the brother of her deceased husband). If she has only daughters, her family may be broken up at the death of the husband.

586 593 589 [587]

It is in the light of these various changes in rights and statuses that the marriage is seen as pointing to the bearing of sons. There is great joy at the birth of a son, for thereby is the continuation of the line assured, and thereby is the marriage fulfilled.

581

The leviratic marriage is actually a form of social insurance, for thus does the Kazakh society take care of those families without a male head. The position of the conjugal family within the framework of the extended family is shown by this practice. A woman weds not her husband but her husband's family; when she marries her husband, she potentially marries her husband's brother. The marriage arrangements are made between the families, and the partners involved are not consulted. The line of the family flows not only through the husband but through his brother, and through all the close kin in the male line within the family. In medieval times, the son among both Turks and Mongols also married the widows of the deceased father other than his own mother,[1] but this form of marriage is now taboo.[2]

587 596 [581]

Within the extended family, and among close kinsmen generally, no one has his exact equal in status. The first basis for differentiation is the generation to which one belongs, the second is the order of birth, the third is chronological age. The age criterion is the least reliable and the least used, but it is there. Kazakh brothers and sisters are ranked according to order of birth, and treat one another with authority or with respect accordingly. Cousins are likewise ranked according to the order of birth of their fathers. The second son of the elder brother does not necessarily take precedence over the elder son of the second brother, however; here complicating factors come in, such as the chronological ages of the cousins in question. If there is a wide disparity in age, then the older cousin takes precedence regardless of birth order. A Kazakh treats his older brother as he does his father's younger brother, and his older sisters as he does his father's younger sisters. He calls them by the same terms and acts toward them in a similar fashion.[3]

596 [561] [593] [606] [593]

Authority and respect tend to follow similar lines outside the family, in the village, clan, and khanate. These latter authority relations are modeled on the paternal, in a way similar to the Chinese, the Japanese, the Roman and South Slavic societies. In considering these parallels,

640 171

[1] Bichwia, 1950, p. 230.
[2] Grodekov, 1889, p. 29.
[3] Ismailov, 1897, p. 11.

[Great Horde]

671 lineage; that she always retained ties, spiritual and
672 legal, to her natal family. Hence, since the law was
673 a matter of membership in specific corporate structures,
the wife could not participate since she was not a mem-
ber: she could not join her husband's, and she lived
away from her father's.

• 576 In divorce, the woman operated at a distinct dis-
advantage to the man, but she was not entirely without
rights. The husband could divorce his wife with ease,
at will, merely by sending her back to her family.[150]
But the wife had grounds at her disposal for the initi-
ation of a divorce proceeding: if the husband was impo-
tent or if he had left her for twelve months without
sending news of himself, the wife could ask for a di-
vorce.[151] More important were the considerations which
militated against the husband's arbitrary use of his
power, and which protected the woman: the husband who
divorced his wife lost all claim to the kalym;[152] the
provisions for disposal of the property (dotalia and
arrha sponsalitia) were agreed on in the marriage ar-
rangements.[153] Divorce was in any case a rare occurrence:

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150 Dingelstedt, 155; Izraztsov, 92.

151 Izraztsov, loc. cit. Dingelstedt, loc. cit., mentions seven years, not one year, as the necessary period for recognition of husband's desertion as grounds for divorce.

152 Izraztsov, loc. cit.

153 Dingelstedt, loc. cit.

586 a family would see to it that the husband would not get rid of the woman who was valuable both for her fertility and for her capacities as a worker, and it took place as a rule only if the woman were incurably ill, or for like reasons.[154]

587 In the event that the husband was known to be impotent, the wife took a second husband from the family of the first--"in order not to have discredit cast upon her in the eyes of others." The new husband paid a kalym called the kalym of kinship, which was materially lower than that of the original kalym, and whose ratio was in inverse proportion to the degree of consanguinity between the two men concerned. [586] The children of the divorced couple remained with the family of the first husband, but a son who was of age had the right of choosing among his kin; also, an eldest daughter could often follow her mother.[155] Among the wealthy, there was usually no question of divorce, since a husband could easily afford another wife.

Criminal Law in its Relation to the Kinship System

491 602 613 A distinction between theft of cattle--rustling--in general and seizure from specified kinsmen--baranta--

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[154] Izrastsov, loc. cit.

[155] Lingalstedt, loc. cit.

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[Little Horde]

171.58 587

sense her husband's; but they were losing control over her.

A generation later it was only a memory that the widow had once necessarily remarried leviratically, and by the turn of the century a number of alternatives had been opened to her in the Little Horde. She might indeed marry her deceased husband's brother; again she might simply go to live in the household of the latter informally; or she might marry away from her husband's kin entirely.[214]

171.58 •586

Divorce was rare in the 1870's.[215] In the following generation, the same general pattern still existed in divorce as elsewhere on the steppe: the husband needed very little grounds to divorce his wife; the wife was limited to the following grounds--impotence and maltreatment on the part of the husband. The latter is a variant on the desertion or nonsupport for a year as the wife's grounds for divorce. However, she was also permitted to divorce her husband by the turn of the century if he was unfaithful to her. The divorced woman was simply returned to her father; if she married again, it was without the formalities of the kalym, the go-between, and so forth.[216] Husband's infidelity as

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[214] Karutz, Kirgisische Hochzeit, 42.

[215] Balliuzek, 90.

[216] Karutz, loc. cit.

[Little Horde]

177.58 586 ground for divorce occurs now for the first time and may be added to the general transformation of certain traits through acculturation.

428 Rules of Inheritance and Succession

We have seen that the estate of a brother was equally distributed among the surviving brothers on his death. The equal division of a man's estate among his survivors is only one aspect of a complex problem. The practice of allotment or apportionment of sons as they came of age was the basic mode of transmission of physical property, which together with the payment of the kalym on behalf of the son, formed part of the total property transfer when the son came of age. For the coming of age was associated with marriage, and entailed both the payment of the kalym and the apportionment of the son.[217]

The youngest son, in contrast to his elder brothers, was not portioned off during the lifetime of the father, although the kalym was paid on his behalf when he came of age, that is to say, when he was married. He shared his father's estate during the father's lifetime, and did not take up full possessive rights until his father's death, when he became the sole residuary legatee of the

[217] Balliuzek, 104.

[Inner Horde]

428 ciple of primogeniture. The custom of ultimogeniture, whereby the youngest son was the residuary legatee and likewise received the title of "prince of the hearth," also was practiced. Despite this favored treatment of the youngest son, the actual authority passed to the eldest son, ceteris paribus, i.e., if he were of good health in mind and body, etc.[247]

586 Divorce is reported as having been easy and fre-
596 quent among the Kazakhs of the Inner Horde,[248] but
177.59 since this is totally unlike other reports on the Kazakhs, it is to be understood as a reflection of acculturative conditions, and not a normal situation. Nevertheless, patriarchal authority, and the extended family as a continuing unit, tended to resist acculturation: the daughter-in-law would be chosen not by the son in question, nor yet by his father necessarily, but by the patriarchal head of the entire extended family.[249] On the other hand, under the conditions of culture contact, a tendency toward neo-local marriage residence arose in the closing decades of the 19th century.[250]

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601 Kinship Terminology: General Considerations

The Kazakh kinship terminology differs in many

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247 Ibid., 108-111.

248 Ibid., 108.

249 Ibid., 110.

250 Idem.